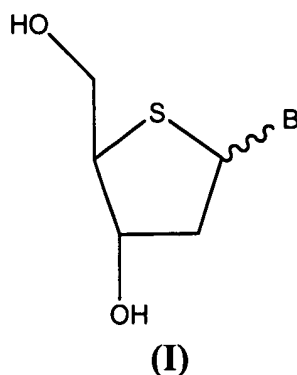


REMARKS/ARGUMENTS

Claims 89 and 130-177 are now pending in the application. Claim 89, 130-131, 135, 141, 143-144, 148, and 152-154 are currently amended, without prejudice or disclaimer of any previously claimed subject matter. Claims 155-177 have been added.

Claim Rejections under 35 U.S.C. § 102

The Examiner has rejected claims 89, 130, 132, 135, 137, 139, 142 and 144-153 as anticipated by WO 94/01117 to Koszalka et al. (Koszalka). Applicants respectfully disagree. Koszalka discloses the use of 2'-deoxy-4'-thia-ribonucleosides of formula (I) for the treatment or prevention of the symptoms or effects of a hepatitis viral infection.



The base (B) in formula (I) of Koszalka is selected from a group of naturally occurring and non-naturally occurring purine bases. The heteroatom of the ribofuranoside is a sulfur atom, the 2'-position of the compound is unsubstituted, and the 3'-position is monosubstituted.

In contrast to Koszalka, in the claims as currently amended, substituent R⁶ at the 2'-position of formulas in claims 89 and 130 is not hydrogen. The compounds recited in claims 89 and 130 must have at least one non-hydrogen substituent at the 2'-position of the nucleoside. The compound recited in claim 142 has two non-hydrogen substituents at the 2'-position. All of the compounds disclosed in Koszalka contain two hydrogen substituents at the 2'-position. The methods for the treatment of a hepatitis C infection in a host recited in the claims as currently amended are distinct from the methods to treat hepatitis C infections using compounds of formula (I) disclosed by Koszalka.

Claims 143-147 of the present application are directed to a method for the treatment of a hepatitis C virus infection in a host as recited in claim 89, wherein the method further comprises administering the compound or a pharmaceutically acceptable salt or ester in combination or alteration with a second anti-hepatitis C virus agent. Claims 148-150 recite methods wherein the compound of claim 89 is in the form of a dosage form, including a tablet or capsule. Claims 152-153 are directed to the method of claim 89, wherein the compound is in substantially pure form, and wherein the compound is at least 90% by weight of the β -D-isomer.

In contrast, Koszalka only discloses the treatment and prophylaxis of viral infections using compounds of formula (I), optionally in combination with other antiviral agents. Pharmaceutical formulations and dosage forms disclosed in Koszalka only contain active agents of formula (I). Koszalka fails to identically disclose the claimed subject matter. Claim 89 and claims dependent therefrom are distinct from the disclosure of Koszalka, since these claims recite methods for the treatment of a hepatitis C virus infection in a host comprising administering a compound of the claimed formulas which is not disclosed by Koszalka. Therefore, Koszalka does not anticipate the pending claims of the present application. Withdrawal of this rejection is respectfully requested.

Claim Rejections under 35 U.S.C. § 103

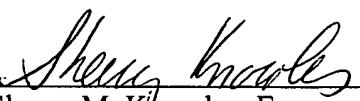
The Examiner has rejected claims 89, 130-154 as obvious in view of Koszalka et al. Applicants respectfully disagree. As discussed above, Koszalka discloses the use of compounds of formula (I) above for the treatment of a hepatitis C infection. The compounds disclosed by Koszalka are un-substituted at the 2'-position. In contrast, the compound recited in claims 89 and 130 must have at least one non-hydrogen substituent at the 2'-position of the nucleoside. Koszalka does not disclose or suggest any compounds other than the disclosed compound with formula (I) with two hydrogens at the 2'-position for the treatment of hepatitis C infections. There is no disclosure or suggestion in Koszalka that substitution of hydrogen at the 2'-position with substituents other than hydrogen is desirable or may result in compounds that have anti-hepatitis C activity. There is no suggestion in Koszalka of the methods defined by the claims.

In order for a claimed method to be obvious, there must be some suggestion in the prior art that would have motivated one of ordinary skill in the art to practice the claimed methods. Koszalka provides no such suggestion or motivation. If anything, Koszalka would have lead the skilled artisan away from the claimed methods by suggesting the requirement of an unsubstituted 2' carbon atom having two hydrogens.

Conclusion

Applicants respectfully submit that the current amendment overcomes the Examiner's rejections. Withdrawal of the rejection is therefore respectfully requested. The Commissioner is authorized to charge any deficiency to Deposit Account 11-0980.

Respectfully submitted,

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